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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,675	02/23/2007	Frederik Gorges	IHN.093.WUS	2319

10888 7590 06/27/2011  
Hollingsworth & Funk  
8500 Normandale Lake Blvd., Suite 320  
Minneapolis, MN 55437

EXAMINER
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BLAIR, KILE O

ART UNIT	PAPER NUMBER
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2614

NOTIFICATION DATE	DELIVERY MODE
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06/27/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

tdotter@hfiplaw.com  
roswood@hfiplaw.com

## Office Action Summary

Application No.

10/560,675

Applicant(s)

GORGES ET AL.

Examiner

Kile Blair

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____  | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

This Office action is in response to the communication filed 4/25/11. Claims 1-8 and 11-22 are pending. Claims 9 and 10 are canceled.

No detailed statement of the grounds of rejection relied upon is included in this Office action since the Office action mailed 12/23/10 contains a complete statement of all grounds of rejections relied upon herein. See MPEP § 706.07.

#### ***Claim Rejections - 35 USC § 102***

Claims 1, 2, 4-8, and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lynn (US 5070527, PTO-892 12/23/10).

#### ***Claim Rejections - 35 USC § 103***

Claims 3 and 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynn.

#### ***Response to Arguments***

In view of applicant's amendment, the rejection of claims 1-7, 19, and 20 under 35 U.S.C. 112, second paragraph is withdrawn.

Applicant's arguments filed 4/25/11 have been fully considered but they are not persuasive.

Applicant argues that "*Lynn does not teach that a short time interval operation and a long time interval operation are independently controlled, as claimed in the independent claims.*"

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The examiner disagrees and notes the meaning of independently controlled short and long time intervals as described on pg. 11, lines 29-37 of the specification:

30 It may be noted that the short term control and the long term control may be regarded as being operated independently. In case of e.g. short and high power input signals, only the short term control algorithm will be activated. In case of long and intermediate power input signals (i.e. signals having a power in between said two thresholds) only the long term control algorithm will be activated. In case of long and high power input signals first the short term control algorithm will be activated, and then the long term control algorithm will be activated, overriding said short  
35 term control. It may be noted that the short term control algorithm and the long term control algorithm may be implemented as completely independent control systems, wherein both control algorithms only control the same output element i.e. the power control.

Applicant's specification filed 8/8/07 (pg. 11, lines 29-37)

Applicant further argues, with respect to the recited independent control feature, that:

*"The subsequent compression threshold operation is not performed until the initial compression threshold operation is performed; thus, the use of the word "initial"."*

The examiner asserts that, in both Lynn and applicant's systems as disclosed, in the instances wherein the subsequent lower level long time threshold is reached; such instance will always follow an instance of the initial higher level short time threshold. This is a natural result of implementing a system that functions according to the disclosure of Lynn or applicant. The teaching shown in fig. 3 (ACOUSTIC OUTPUT) of Lynn wherein a higher short time threshold is reached beginning at time 'F' and a lower long time threshold is reached at time "G".

According to the OUTPUT SIGNAL graph in fig. 3 of Lynn, the criteria for activating higher short time threshold control is still being met from time 'G' to time 'I'; however, the lower long time threshold takes precedence and overrides the higher short time threshold and ACOUSTIC OUTPUT reduces to the lower long time threshold level. Therefore, the examiner asserts that the

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HIGH and LOW THRESHOLD in fig. 3 of Lynn are **independently controlled** in accordance with the meaning of the term described in the specification.

Applicant argues that “*lines 37-42, teach that the incoming signal is analyzed to determine whether a voice signal is continuously present, and if the system determines that a voice signal is present, the compression level is lowered. This is further described at Col. 3, lines 39-45, where a continuous tone (e.g., speech) is lowered in dB scale.*” The examiner asserts that Lynn's system does not determine whether a **voice** signal is continuously present, *per se*, but whether **any** incoming signal is continuously present (i.e. higher than the lower level threshold for the duration of the long term interval) and this is principally how applicant's claimed system operates as well.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kile Blair whose telephone number is (571)270-3544. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kile Blair/  
Examiner, Art Unit 2614

/VIVIAN CHIN/  
Supervisory Patent Examiner, Art Unit 2614